Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Elimination of Rate-of-Return Regulation of Incumbent Local Exchange Carriers	))	RM-10822
	)	
Federal-State Joint Board on Universal Service	))	CC Docket No. 96-45
	)	

To: The Commission

COMMENTS OF ETEX TELEPHONE COOPERATIVE, INC.

Introduction

The Etex Telephone Cooperative, Inc. (Etex),[1] hereby respectfully submits these Comments in regards to the Western Wireless Corporation (Western Wireless) Petition for Rulemaking to Eliminate Rate-of-Return Regulation of Incumbent Local Exchange Carriers (Petition.) in the above-referenced docket.[2]

In its Petition, Western Wireless asked the Federal Communications Commission (the Commission) to eliminate rate-of-return regulation (ROR) of rural incumbent local exchange carriers (rural LECs) for the purpose of determining universal service support and interstate access charges. Western Wireless argued that such elimination would: (1) save money and stop waste, fraud and abuse; (2) create incentives for efficiency; and (3) remove barriers to competition in rural areas. Western Wireless further proposed to replace ROR with a forward-looking cost-based scheme.

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[1] Etex is a small, rural incumbent local exchange carrier based in Gilmer, Texas that serves approximately 15,000 customers in Northeastern Texas.

[2] *Elimination of Rate-of-Return Regulation of Incumbent Local Exchange Carriers, Federal-State Joint Board on Universal Service*, Western Wireless Petition, RM 03-10822, CC Docket No. 96-45 (released Nov. 19, 2003).

Rural Carriers are True Carriers of Last Resort

The Commission implemented ROR pursuant to the 1934 Telecommunication Act for the purpose of simulating a competitive return in a monopoly marketplace. The Commission has correctly concluded that ROR has worked extremely well in extending reliable telephone service to rural America.[3] ROR in a monopoly marketplace required the rural ILECs to provide telephone service to all those seeking service no matter how far the customer was from the local exchange's central office; this is called the "carrier of last resort" obligation. ROR enables carriers with true "carrier of last resort" responsibilities to set their rates at levels designed to recover their regulated costs and a reasonable return—unless their projections are belied by their own mistakes, regulatory changes and uncertainties, competitive growth, or other developments. In addition, rural ILECs had to maintain a "quality of service" elevated to a level prescribed by the Commission setting the rates—generally to the reliability level of 0.99999. In terms of equity, competition on a level playing field is impossible when one class of competitors can provide lower "quality of service" on an "as offered" service level basis and another class of competitors is held to the "carrier of last resort" standard for all of its customers. Therefore, if the Commission sees fit to eliminate ROR, it is only fair that it remove the "carrier of last resort" obligation, elevated "quality of service" levels and other onerous Title II obligations that would burden only one class of competitor—rural ILECs. Requiring rural ILECs to provide service under burdensome regulation, while competitors are able to avoid such regulation, is not, nor will it ever be, in the public interest of the United States of America.

Since competition is spreading to all service markets (local and long distance voice, Internet/data, and video services), flexibility is necessary for rural ILECs, before customers in hard to serve areas, are hurt by competitive entry under market conditions distorted by pre-competitive era regulations.

Conclusion

For the foregoing reasons, Etex urges the Commission to remove Carrier of Last Resort, service quality and other onerous Title II obligations should it decide to remove Rate of Return regulation as requested by Western Wireless.

Respectfully submitted,

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December 16, 2003

[3] In November 2003, the Commission released a "Telephone Subscribership Report" that indicated that the telephone subscribership penetration rate in the United States was 95.5 %; it is up 0.2% from the last report of November 2002.